

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ROBERT L. MCCRAY,

Petitioner,

-against-

MARK ROYCE,

Respondent.  
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**KATHARINE H. PARKER, United States Magistrate Judge:**

The Court acknowledges Petitioner's submissions regarding his change of address to the Marcy Correctional Facility. (*See, e.g.*, ECF No. 33.) The Court also notes that, on June 5, 2021, Respondent in this case filed a letter on ECF updating the Court on the status of Petitioner McCray's NY CPL § 440 motion in the Supreme Court, Bronx County. According to Respondent, that motion is still pending.

As a general matter, federal habeas relief is typically only available to a Petitioner that has "exhausted the remedies available in the courts of the State." 28 U.S.C. § 2254(b)(1)(A). Accordingly, the Court must wait until Petitioner's NY CPL § 440 motion is resolved before it can address the Petition in this case. Respondent is scheduled to submit another update on that motion by no later than August 9, 2021. Furthermore, Petitioner should inform the Court when the § 440 motion is resolved.

**The Court respectfully requests that the Clerk of Court mail a copy of this Order to the pro se Petitioner.** The Court further notes that there is nothing for Petitioner to do at this time with respect to his case in federal court.

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**20-cv-04127 (KPF) (KHP)**

**ORDER**

**SO ORDERED.**

DATED: New York, New York  
July 12, 2021



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KATHARINE H. PARKER  
United States Magistrate Judge